

IN THE HIGH COURT OF JUDICATURE AT PATNA

Govt. Appeal (DB) No.16 of 1989

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This Govt. Appeal is directed against the judgment dated 7.2.1989 passed in Sessions Trial No. 383/2 of 1981/88 by Shri Ram Prit Pathak, 7th Additional Sessions Judge, Rohtas at Sasaram.

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The State Of Bihar..... Appellant/s

Versus

1. Ram Deo Singh, S.I., S. P. Office, Rohtas
2. Manohar Singh, A. S.I. S.P. Office, Rohtas
3. Lalita Singh son of Kedar Singh
4. Din Dayal Pandey son of Ram Naresh Pandey
5. Shivadhin Singh Son of Ehhacari Singh
6. Vijay Bahadur Singh Son of Siyadhin Singh
7. Hira Singh Son of Chandrika Singh
8. Shri Bhagwan Singh son of Markandey Pandey
9. Sheo Nath Singh son of Sheekhkhan Singh
10. Umraon Singh son of Sheekkhan Singh
11. Markandey Singh Son of Ram Naresh Singh
12. Dadan Singh son of Shiyadhin Singh
13. Gouri Shankar Singh son of Umraon Singh
14. Subedar singh son of Sukkhan Singh
15. Ramashankar Singh son of Prameshwar Singh
16. Jagdish Singh son of Naresh Singh
17. Sita Ram Singh son of Umraon Singh
18. Ram Jee Singh Son of Markandey Singh
19. Dipty Singh son of Ramkewal Singh
20. Jai Prakash Singh son of Jognarayan Singh
- All resident of village- Samahouta P.S.- Mohania, District- Rohtas
21. Vidya Singh Son of Bagmath Singh of village- Machhanhate, P.s.-
Durgawati, District- Rohtas
22. Sheo Jee singh son of Kapildeo Singh
23. Paras Singh Son of Kapildeo Singh
- All resident of village- Pipara, P.s.- Durgawati District- Rohtas
24. Shiva Shankar Pandey, Constable,
25. Noneshwar Soran, Constable
26. Paras Nath Pathak, Hawildar
27. Ram Nirekhan Thakur Constable
- All B.M.P.-2, Dehari Commandant Office, Rohtas

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashwini Kumar Sinha, APP

For the Respondent/s : None

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**CORAM: HONOURABLE MR. JUSTICE SHYAM KISHORE
SHARMA**

and
HONOURABLE MR. JUSTICE AMARESH KUMAR LAL
ORAL JUDGMENT
(Per: **HONOURABLE MR. JUSTICE SHYAM KISHORE SHARMA**)
Date: 14-09-2012

No one appeared on behalf of the respondents.


Learned counsel for the appellant is present.

2. The instant Government Appeal is against the judgment dated 7.2.1989 passed by the learned 7th Additional Sessions Judge, Rohtas at Sasaram in Sessions Trial No. 383/2 of 1981/88 whereby the respondents named above have been acquitted from the charges under section 235 of the Cr.P.C.

3. Altogether 27 accused persons were charged under sections 120B and 302/149 of the Indian Penal Code and accused Raj Narain Singh, Sheo Jee Singh, Manohar Singh, Ramdeo Singh, Shri Bhagwan Singh (deceased), Hira Singh and Vidya Singh further stand charged under section 323 of the Indian Penal Code.

4. During the pendency of this appeal before this Court, respondent nos. 1, 8, 11, 14, 18 and 24 have died and against them this Government Appeal was ordered to be abated vide order dated 3.9.2007 and 6.7.2007 respectively.

5. The occurrence was of the mid night of 22/23.6.1979. Lachi Devi, wife of Shri Kewal Pasi is the informant of the case. She alleged that at about mid night there was firing and the cause of the occurrence was non-voting in favour of a particular candidate. The FIR was registered under sections 148, 149, 323, 427,



452 and 302 of the Indian Penal Code. After investigation chargesheet was submitted and cognizance was taken. Accordingly, the case was committed to the court of Sessions where the charges were explained to the accused persons who pleaded their innocence and claimed to be tried. During trial altogether 16 prosecution witnesses were examined.

6. The Trial Court analyzed the evidences threadbare and found that no connecting evidence could be produced before it which would result in conviction. Accordingly, benefit of doubt was given. It was the occurrence of the dark night and no source of identification was claimed. That ground was enough to create a doubt in the mind of the court and the court reached to its conclusion that the prosecution has failed in proving the charge against the accused persons beyond the shadow of all reasonable doubts.

7. An order of acquittal is an indication that the accused persons have been held to be innocent. There is presumption of innocence in the mind of the accused under Indian Penal Jurisdiction. The order of conviction could be set aside if it is shown by the prosecution that the judgment is illegal and improper. If no illegality or impropriety is shown, then the order of acquittal cannot be interfered with. Similar is the case here. The order of Trial Court is based upon the sound reasoning. The source of identification when the occurrence is of midnight is one of the basis on which result can be based. That was not proved beyond the shadow of reasonable

doubts, so order of acquittal was passed. The judgment of Trial Court is based upon the sound reasonings and needs no interference by this Court.

8. In the result this appeal is dismissed.

(Shyam Kishore Sharma, J)

(Amaresh Kumar Lal, J)

Patna High Court
Dated 14th September, 2012
Avin.